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Attorneys for Defendants Wells Fargo Bank, National Association

IN THE UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

In re:

FAIRN & SWANSON, INC.,

Debtor.

DIAGEO BRANDS BV, DIAGEO SCOTLAND  
LIMITED, and DIAGEO NORTH AMERICA,  
INC.,

Plaintiffs,

v.

LOIS I. BRADY, as Trustee for the Chapter 7 estate  
of FAIRN & SWANSON, INC., and WELLS  
FARGO BANK, NATIONAL ASSOCIATION

Defendants.

Case No. 20-40990-RLE

Chapter 7

Honorable Roger L. Efremsky

Adversary Proceeding Case No. 20-  
04034-RLE

Chapter 7

**STIPULATION REGARDING  
MOTION FOR JUDGMENT ON  
THE PLEADINGS, OR, IN THE  
ALTERNATIVE, SUMMARY  
JUDGMENT**

This Stipulation by and among Wells Fargo Bank, National Association ("Wells Fargo"), Lois I. Brady, as Chapter 7 Trustee ("Trustee") of the above-captioned Fairn & Swanson, Inc. ("Debtor") bankruptcy estate, and Diageo Brands BV, Diageo Scotland Limited, and Diageo North America, Inc. (collectively, "Diageo") is made by and through their undersigned counsel with respect to the following facts:

A. Diageo filed the above-captioned adversary proceeding against the Trustee and Wells Fargo to determine the rights of the parties in goods sold by Diageo to the Debtor that are presently under the possession and control of the Trustee.

B. Wells Fargo filed a motion captioned *Motion for Judgment on the Pleadings, or in the Alternative, for Summary Judgment* (Adv. Proc. Docket No. 7, the "Motion for Judgment"), seeking entry of a judgment on the pleadings, or in the alternative, summary judgment.

C. The Motion for Judgment seeks entry of an order of this Court determining the rights of the Trustee in goods sold by Diageo to the Debtor (the "Diageo Goods"). The Motion for Judgment was filed on September 21, 2020, and is set currently for hearing on October 22, 2020, at 11:00 a.m.

D. The objection deadline for Diageo to respond to the Motion for Judgment is October 8, 2020.

E. The Trustee filed a formal joinder to the Motion for Judgment (Adv. Proc. Docket No. 11).

F. The parties have negotiated an agreement, subject to Court approval, to extend the deadline for Diageo to file its response to the Motion for Judgment and for Wells Fargo to file a reply to the objection.

**NOW, THEREFORE**, with reference to the facts and circumstances set forth above, and in consideration for the mutual covenants and promises set forth below, the parties hereto stipulate and agree as follows:

1. Diageo and the Trustee consent to have Wells Fargo file this stipulation in accordance with Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule (“LBR”) 9006-1(a).
2. Diageo shall file its opposition to the Motion for Judgment on October 14, 2020, and Wells Fargo shall file its reply on October 19, 2020.
3. The parties agree that the Court can consider whether to approve this stipulation confirming the objection and reply deadlines ex parte.
4. The requirement for the parties to make Initial Disclosures pursuant to the Court’s order dated August 13, 2020, shall be waived pending the ruling of the Court on the Motion for Judgment.
5. This Stipulation is subject to approval by the Bankruptcy Court.

*(Signature page follows)*

Dated: October 5, 2020

PILLSBURY WINTHROP SHAW  
PITTMAN LLP

By: /s/ Jonathan R. Doolittle  
JONATHAN R. DOOLITTLE

Dated: October 5, 2020

Attorneys for Plaintiff Wells Fargo Bank,  
National Association

WENDEL ROSEN LLP

/s Mark S. Bostick  
Mark S. Bostick  
Lisa Lenherr  
Attorneys for Lois I. Brady, Trustee

Dated: October 5, 2020

ROCHELLE MCCULLOUGH, LLP.

/s/ Andrew E. Jillson  
Andrew E. Jillson  
Kathryn G. Reid  
Attorneys for Diageo Brands BV,  
Diageo Scotland Limited, and Diageo  
North America, Inc.